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ABSTRACT

This fact sheet provides answers to frequently asked questions about provisions in the Individuals with Disabilities Education Act (IDEA) relating to special education eligibility, Individualized Education Programs (IEPs), and student placement. Specifically, information is provided on: (1) the purpose of the IDEA; (2) eligibility for services under IDEA; (3) the determination of eligibility; (4) the content of the IEP; (5) how the IEP is developed; (6) who should be involved in IEP meetings; (7) the parents' role in developing the IEP; (8) statements that must be included in the IEP; (9) student participation in the IEP meeting; (10) review and revision of the IEP; (11) provisions in IDEA related to student placement; and (12) what parents can do if they disagree with their child's IEP or placement decision. (CR)

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Q & A

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA):

ELIGIBILITY, IEPs AND PLACEMENT

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Q&A

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The Individuals with Disabilities Education Act (IDEA): Eligibility, IEPs and Placement

What is the IDEA?

The Individuals with Disabilities Education Act (IDEA) is a federal law mandating that all children with disabilities have available to them a free, appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living (P.L. 105-17, 1997). It provides funds to assist states in the education of students with disabilities and requires that states ensure the rights of children with disabilities and their parents are protected. IDEA also assists states in providing early intervention services for infants and toddlers with disabilities and their families.

Who is eligible for services under IDEA?

Children ages 3 through 21 who need special education and related services because of a disabling condition are eligible. A child with a disability is defined as one with mental retardation; a hearing impairment or deafness; a speech or language impairment; a visual impairment, including blindness; emotional disturbance; an orthopedic impairment; autism; traumatic brain injury; an other health impairment; a specific learning disability; deaf-blindness or multiple disabilities.

States, in agreement with local education agencies, may use the category of developmental delay to serve children ages three through nine to avoid mislabeling children.

How is eligibility for services determined?

The education agency must conduct an evaluation to determine whether the child has a disability and what the child's educational needs are. To do this, the education agency must take reasonable measures to obtain the parent's consent. If the parent fails to respond to the request for consent, the education agency may evaluate the student. If the parent refuses consent, the education agency may pursue an evaluation by using the mediation and due process procedures specified by IDEA.

To conduct the evaluation, school districts must use testing materials free from racial or cultural bias and presented in the child's native language or means of communicating. Tests must be chosen that assess the child's actual abilities if sensory, motor or language impairments are present. Evaluations cannot be based solely on one general test, such as an intelligence test, and the child is to be assessed across all areas related to the disability. Trained and knowledgeable personnel must administer tests.

A team of qualified professionals and the parents of the child determine if the child is eligible for services. Parents who are dissatisfied with an evaluation may have an outside evaluation performed. The school when making decisions with respect to the student's program must consider this evaluation.

What is an IEP?

An IEP refers to the Individualized Education Program. This is a written, legal document that describes the special education and related services to be provided to the student. It also states how the child will be involved in the general curriculum and the extent, if any, to which the child will not participate with nondisabled children in a regular class. The IEP also lists supplementary aids and services to be provided to the child, or on behalf of the child, and program modifications or supports for school personnel so that the child will advance appropriately toward annual goals, progress in the general curriculum, participate in extracurricular activities and be educated with children with and without disabilities.

How is the IEP developed?

The IEP is developed in a team meeting in which all members of the IEP team decide what is an appropriate education for the child who needs services. The main goal of the IEP meeting is to discuss the educational needs of the student and write a program that identifies goals and objectives and needed related services for the year.

Who should be involved in IEP meetings?

IDEA requires that every IEP meeting, whether it is the initial meeting or a review, include: the parents; a special education teacher or provider; an administrator knowledgeable about the general curriculum, the availability of resources and who is qualified to provide or supervise the specially designed instruction; a regular education teacher if the child will be participating in the regular education environment; an individual who can interpret the instructional implications of the evaluation results; the child, when appropriate; and other people who are involved in the education of the student as identified by the school or the parent.

A meeting may be held without a parent attending if the parent is unable or unwilling to do so. The district must, however, invite the parent(s) and document its attempts to set a time and place where all persons can attend. It must also offer alternative ways for parents to participate, such as by phone. Parental absence from the meeting is not necessarily construed as reflecting dissatisfaction or disagreement; and IEP decisions, including placement, will be made by the school in their absence.

What is the parents' role in developing the IEP?

IDEA makes it clear that parents are equal partners in the IEP process. School personnel and parents must work toward the common goal of developing an effective education program and determining appropriate placement for the child.

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Parents should prepare for the meeting by reviewing their child's evaluation and past education records. IDEA ensures that parents are permitted to have access to all records and copies of IEPs. Parents should also have in mind goals or objectives based on what they see as needed and may want to talk with their child's teacher(s) before the meeting. In developing the IEP, the IEP team must consider the strengths of the child and the concerns of the parents for enhancing the education of their child.

What is included in an IEP?

IDEA requires that the following statements be included in the IEP:

- The child's present levels of educational performance, including how the child's disability affects his/her progress in the general education curriculum, and for preschool children how the disability affects the child's participation in appropriate activities;
- Measurable annual goals, including benchmarks or short-term objectives that enable the student to participate in the general curriculum and help meet any other education needs resulting from the disability;
- Special education and related services and supplementary aids and services to be provided to the student, and program modifications or supports for school personnel that will be provided for the student to attain annual goals, to progress in the general curriculum, and to participate in extracurricular and other nonacademic activities with children with and without disabilities;
- Explanation of the extent, if any, to which the student will not participate in regular education classes and in extracurricular and non-academic activities;
- Modifications in state- or district-wide assessments needed for the child to participate, or an explanation of why the assessment is not appropriate for the child and how the child will be assessed;
- The dates these services will begin and frequency, location and duration of services;
- For each student age 14, a statement of transition needs and by age 16, the transition services which will be provided, including interagency linkages;
- How the child's progress toward the annual goals will be measured and how the child's parents will be regularly informed of their child's progress.
- In a state that transfers rights at the age of majority, the student's IEP must document that the student has been informed of his or her rights under Part B of IDEA beginning one year before reaching age of majority.

When is it appropriate for the student to participate in the IEP meeting?

Almost all students with mental retardation can and should participate in the IEP process. Their opinions, preferences and choices need to be a part of the decision-making process. The chance to choose areas of instruction, based on their preferences, will help them develop skills, which lead to independence and self-determination. Of course, there are factors, which limit how much students participate, including their age and their ability to make adequate decisions, but these should not exclude students from participating to the full extent of their capacity.

How often is the IEP reviewed and revised?

The IEP team must review each student's progress yearly to determine current progress and future needs. The review needs to consider whether annual goals for the child are being achieved, staff and parental concerns about the student's progress, the results of any reevaluation conducted, and what changes need to be made to meet the student's needs.

What does IDEA require related to the child's placement?

IDEA requires that students with disabilities be educated with students who do not have disabilities to the greatest extent possible. This is referred to as the "least restrictive environment (LRE)." It requires that removal of the child from the regular classroom occur only when education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. A continuum of alternative placements must be available to meet the needs of children for special education and related services.

The placement decision is made by a group of persons, including the parents, who are knowledgeable about the child, the meaning of the evaluation data, and the placement options. The child's placement is determined at least annually, is based on the child's IEP and is close as possible to the child's home. Unless the IEP requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled.

What can parents do if they disagree with their child's IEP or placement decision?

If there are decisions that either the parent and student or the school district feel are inappropriate, or if the family is dissatisfied with any aspect of the educational program, IDEA guarantees certain rights to be fully informed about their child's education program and access to due process. Due process of law is a way of making sure that the law is fairly applied.

Additional resources from The Arc:

The Arc. (1999). *The Individuals with Disabilities Education Act (IDEA): Procedural Safeguards and Due Process.*

The Arc. (1997). *Early Intervention Services for Children Birth Through Age 2 Enacted by P.L. 105-17 (IDEA 97).*

For more information contact:

The National Information Center for Children and Youth with Disabilities (NICHCY). Publications list available at P. O. Box 1492, Washington, D.C. 20013. Telephone: 1-800-695-0285 (voice/TTY) and 202-884-8200 (voice/TTY). Web site: http://www.nichcy.org

The Parent Training and Information Center in your state. It can be located by contacting NICHCY (above) or on the Internet at http://www.npnd.org.

FAPE Project, % PACER Center, Inc. 1-888-248-0822. Web site: http://www.fape.org email: Pacer@pacer.org

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